



Paper No. 11

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Mazhar, Nadalin, Larkin, Warne
Application No. 09/411,171
Filed: October 1, 1999
Attorney Docket No. 3797.80030
For: Windows Radio Toolbar

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: DECISION ON PETITION UNDER
: 37 CFR 1.183 AND REFUSING
: STATUS UNDER 37 CFR 1.47(a)
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This is in response to the petition under 37 CFR 1.183 and request for reconsideration of petition under 37 CFR 1.47(a), filed November 6, 2000.

PETITION UNDER 37 CFR 1.183 TO WAIVE REQUIREMENT OF
STATEMENT OF LAST KNOWN ADDRESS OF NON-SIGNING INVENTOR
UNDER 37 CFR 1.47(a):

On June 20, 2000, a decision from this Office dismissed a petition under 37 CFR 1.47(a) for the above-identified application. In pertinent part, petitioner failed to submit a statement of non-signing inventor Warne's last known address. In that dismissal, petitioner was given the option of filing a petition under 37 CFR 1.183, requesting waiver of the requirement to provide the last known address for the inventor. Therefore, on November 6, 2000, petitioner obtained a three-month extension of time and filed the instant petition. The petition contains the declaration of D. Bartley Eppenauer, attorney for the assignee, which shows the attempts made to obtain a last known address for inventor Warne. In light of the statements made in Mr. Eppenauer's declaration, it appears that petitioner has made diligent efforts to obtain a last known address for inventor Warne and yet is unable to obtain any such address. Accordingly, the petition under 37 CFR 1.183 to waive the requirement of a statement of Mr. Warne's last known address is **granted**.

Furthermore, in light of the above, the requirement for the inventor's residence and post office address under 37 CFR 1.63(a)(3) is hereby waived *sua sponte*.

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a):

The renewed petition under 37 CFR 1.47(a) submitted November 6, 2000, for this application is **dismissed**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply

should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As to item (2), An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted does not set forth Kevin Warne's citizenship. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

Please note, the application file does not indicate a change of address has been submitted in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the petitioner at the address given on the petition. However, all future correspondence will continue to be directed to the address of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
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Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
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